

**RESALE AGREEMENT UNDER SECTIONS 251 AND 252**

**OF THE**

**TELECOMMUNICATIONS ACT OF 1996,**

**dated as of November 17, 1999,**

**by and between**

**NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY d/b/a BELL  
ATLANTIC - MAINE**

**and**

**TELERGY NETWORK SERVICES, INC.**

**RESALE AGREEMENT UNDER SECTIONS 251 AND 252**  
**OF THE**  
**TELECOMMUNICATIONS ACT OF 1996**

THIS RESALE AGREEMENT (this "Agreement") under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Act"), effective as of the 17<sup>th</sup> day of November, 1999, by and between New England Telephone and Telegraph Company d/b/a Bell Atlantic - Maine, a New York corporation with offices at 1 Davis Farm Road, Portland Maine, 04103 ("BA"), and Telergy Network Services, Inc., a New York corporation with offices at One Telergy Parkway, East Syracuse, New York 13057 ("Telergy") (BA and Telergy, each individually, a "Party" and, collectively, the "Parties").

WHEREAS, Telergy has requested, pursuant to Section 252(i) of the Act, that BA make available to Telergy retail telecommunications services of BA for resale subject to the terms and provisions set forth in a certain New England Telephone and Telegraph Company Resale Service Agreement, dated as of December 1, 1997, by and between BA and CTC Communications Corp and approved by the Maine Public Utility Commission (the "Commission" ) under Section 252 of the Act, a copy of which agreement is attached hereto as Appendix 1 (the "Separate Agreement"); and

WHEREAS, BA has undertaken to make such terms and conditions available to Telergy hereby only because of, and to the extent required by, Section 252(i) of the Act;

NOW, THEREFORE, in consideration of the mutual provisions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, BA and Telergy hereby agree as follows:

**1.0 Incorporation of Appendices by Reference**

1.1 Except as expressly stated herein, the terms and provisions of the Separate Agreement, as such terms and provisions are (a) set forth in Appendix 1 and (b) in effect and on file with the Commission on the date first set forth above after giving effect to operation of law, and of the other appendices attached hereto are incorporated herein in their entirety by reference and form an integral part of this Agreement.

1.2 References in Appendix 1 to CTC Communications Corp or "Customer" shall be deemed to refer to Telergy for purposes of this Agreement.

1.3 References in Appendix 1 to the date of effectiveness thereof and like provisions shall be deemed to refer to the date first set forth above. Unless terminated earlier in accordance with the terms and provisions of Appendix 1, this Agreement shall continue in effect until the Separate Agreement expires or is otherwise terminated.

1.4 Notwithstanding anything set forth in Section 9 of the Separate Agreement, all notices, demands, requests or other communications which may be given by BA under this Agreement shall be addressed as follows:

Telergy Network Services, Inc.  
Attn: General Counsel  
20 Corporate Woods  
Albany, NY 12211  
Tel: 518-462-1882  
Fax: 518-463-9937

and all notices, demands, requests or other communications which may be given by Telergy under this Agreement shall be addressed as follows:

President – Telecom Industry Services  
Bell Atlantic Corporation  
1095 Avenue of the Americas  
40<sup>th</sup> Floor  
New York, New York 10036  
Facsimile: (212) 597-2585

with copies to:

Bell Atlantic Network Services, Inc.  
Attn: Jack H. White, Jr.  
Associate General Counsel  
1320 N. Court House Road, 8<sup>th</sup> Floor  
Arlington, Virginia 22201  
Telephone: (703) 974-1368  
Facsimile: (703) 974-0744

and

Bell Atlantic – Pennsylvania, Inc.  
Attn: General Counsel  
1320 N. Court House Road, 8<sup>th</sup> Floor  
Arlington, Virginia 22201

Either Party may from time-to-time designate another address or addressee by giving notice in accordance with Section 9 of the Separate Agreement as modified for purposes of this Agreement by this Section 1.4.

1.5 The rates, charges, discounts and other terms and provisions set forth in Appendix 2 attached hereto shall replace and supersede in their entirety the rates, charges, discounts and other terms set forth in Attachment 1 to Appendix 1.

## **2.0 Clarifications**

2.1 The Parties agree that if any judicial or regulatory authority of competent jurisdiction determines (or has determined) that BA is not required to furnish any service or item or provide any benefit to telecommunications carriers otherwise required to be furnished or provided to Telergy hereunder, then BA may, in its sole option, avail itself of any such determination by providing written notice thereof to Telergy.

2.2 The entry into, filing and performance by BA of this Agreement does not in any way constitute a waiver by BA of any of the rights and remedies it may have to seek review of any of the provisions of this Agreement or the Separate Agreement, or to petition the Commission, other administrative body or court for reconsideration or reversal of any determination made by any of them, or to seek review in any way of any portion of this Agreement or the Separate Agreement in connection with Telergy's election under Section 252(i) of the Act.

2.3 Notwithstanding any other provisions of this Agreement, BA shall have no obligation to perform under this Agreement until such time as Telergy has obtained a Certificate of Public Convenience and Necessity or such other authorization from the Commission as may be required by law as a condition for conducting business in the State of Maine as a local exchange carrier.

## **3.0 Counterparts**

This Agreement may be executed in one or more counterparts, each of which when so executed and delivered shall be an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed under seal as of the date first set forth above.

TELERGY NETWORK SERVICES, INC.

BY: \_\_\_\_\_  
Signature  
William M. Kelly, Jr.  
Name (Printed)  
ITS: Executive Vice President  
Title

NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY d/b/a BELL  
ATLANTIC - MAINE

BY: \_\_\_\_\_  
Signature  
Jeffrey A. Masoner  
Name (Printed)  
ITS: Vice-President - Telecom Industry Services  
Title